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Diana Hamlet-Cox
INCYTE GENOMICS
3160 Porter Drive
Palo Alto, CA 94304

In re Application of
TANG *et al*
U.S. Application No.: 09/763,335
PCT No.: PCT/US99/19072
Int. Filing Date: 19 August 1999
Priority Date: 21 August 1998
Attorney Docket No.: PF-0572 USN
For: HUMAN CELL SIGNALING PROTEINS
(CSIG)

**DECISION ON
PETITION UNDER
37 CFR 1.182**

This decision is in response to applicants' "Communication" filed via facsimile on 11 November 2002 and declaration submitted 15 October 2001.

BACKGROUND

On 11 April 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge for providing the declaration late must be furnished. A one-month period of time for response was set with extensions of time available under 37 CFR 1.136(a).

On 15 October 2001, applicants submitted a "Response to Notification of Missing Requirements under 35 U.S.C. § 371" which was accompanied by, *inter alia*, an executed declaration and authorization to charge the surcharge fee of \$130.00 and four-month extension fee of \$1,440.00 to Deposit Account No. 09-0108. However, the third listed joint inventor signed her name as Chandra Arvizu on the declaration while her name was listed as Chandra Patterson on the international publication.

On 08 April 2002, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the current declaration was not in compliance with 37 CFR 1.497(a) and (b) because the third inventor was shown differently on the declaration than on the international application. A one-month time limit was set for response since the time remaining in the Notification of Missing Requirements had expired. No extension of this time limit under 37 CFR 1.136 was allowed.

On 11 November 2002, applicants submitted the instant communication which

was accompanied by, *inter alia*, a signed affidavit by the third listed joint inventor and authorization to charge any required fees to counsel's Deposit Account.

DISCUSSION

Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedures (MPEP) states, in part:

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182 . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

In the instant petition, applicants have provided an affidavit signed by the third listed joint inventor recording her prior name and her new name, *i.e.*, Chandra Patterson and Chandra Arvizu. This affidavit was signed on "10-11-02." Applicants also included authorization to charge the \$130.00 petition fee to Deposit Account No. 09-0108. This response meets the requirements of the MPEP to change an inventor's name.

However, this response is untimely.

The time limit to respond to the Notification of Defective Response (Form PCT/DO/EO/916) expired on 08 May 2002. This response was submitted on 11 November 2002.

CONCLUSION

For the reason discussed above, applicants' petition under 37 CFR 1.182 is hereby **GRANTED**.

Accordingly, the declaration submitted on 15 October 2001 listing the inventor's new name complies with 37 CFR 1.497(a) & (b).

However, the above-captioned application is hereby **ABANDONED** for failing to timely respond to the Notification of Defective Response (Form PCT/DO/EO/916) mailed 08 April 2002.

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) to revive the above-captioned application.

If reconsideration on the merits of this decision is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions

of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

A handwritten signature in black ink, appearing to read "James Thomson". The signature is fluid and cursive, with the first name "James" and last name "Thomson" clearly distinguishable.

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457